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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,967	01/09/2002	Andrew J. Bernoth	BLD920010010US1	6679

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STEVEN E. BACH, ATTORNEY AT LAW  
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NEWTOWN SQUARE, PA 19073

EXAMINER
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ADHAMI, MOHAMMAD SAJID

ART UNIT	PAPER NUMBER
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2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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## Office Action Summary

Application No.

10/042,967

Applicant(s)

BERNETH, ANDREW J.

Examiner

Mohammad S. Adhami

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

- Applicant's Amendment filed 12/18/2006 is acknowledged.
- Claims 1,3,6,8,11,16 and 18 have been amended.
- Claims 2,7 and 12 have been cancelled.
- Claims 1,3-6,8-11 and 13-18 are pending.

### ***Claim Objections***

1. Claim 9 is objected to because of the following informalities: "predefines" should be "predefined". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims fail to meet the criteria set in the Interim Guidelines for Examination of Patent Application for Patent Subject Matter Eligibility

([http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101\\_20051026.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf)), which state a program of instructions is non-statutory, unless claimed as "computer-readable medium encoded with a computer program".

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1,3-6,8-11 and 13-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification does not adequately disclose how the method/system/device of claims 1,6, and 11 operate. The method/system/device of how a substitute filter is identified is not adequately disclosed.

The process of matching the pre-written filter files with the specifically written filter as claimed in claims 1,3,6,8 and 11 is not defined in the specifications, nor is a pre-defined test for carrying out this process.

The predefined set of criteria in claims 4,9,14 and 18 is not supported in the specifications.

Searching for identified defined features, as recited in claims 5,10, and 15, is not supported in the specifications.

Claims 13,16 and 17 are rejected because they depend from rejected claims.

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3. Claims 1,3-6,8-11 and 13-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As amended, claims 1,6 and 11 recite "a set of a plurality of pre-written router filters" and "matching each of the plurality of pre-written filters, one at a time." After carefully examining the instant disclosure, the examiner respectfully submits that support for this amendment is lacking and the addition of said limitation is new matter. The specification discloses a new specifically written filter, but there is no comparison made with regards to the pre-written filter being written before the specifically written filter.

As previously amended, claim 16 recites "loading both said identified one of the pre-written filters and said specifically written filter onto the router." After carefully examining the instant disclosure, the examiner respectfully submits that support for this amendment is lacking and the addition of said limitation is new matter. The specification discloses a new specifically written filter, but there is no comparison made with regards to the pre-written filter being written before the specifically written filter.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1,3-6,8-11 and 13-18 (as best understood) are rejected under 35 U.S.C. 102(e) as being anticipated by Hong (US App. 2004/0213233).

**Re claims 1,6,11 and 13:**

Hong discloses *providing a set of a plurality of pre-written filters within one or more files* (Fig.9 ref.S905 where the routes in the network topology information are a “set of a plurality of pre-written filters”).

Hong further discloses *providing a router filter written specifically for the router* (Fig.9 S905 where the routes in the previous routing table is a “filter written specifically”).

Hong further discloses *running a program on a computer to identify a pre-written filter as a substitute for the specifically written filter* (Fig.9 ref.S905 where the routing table is reconstructed to replace the previous “written filter” and the routes in the network topology (“pre-written filter”) are used to identify some of the routes on the topology to substitute and Para.[0033] where all possible routes

are computed and the routes kept from the previous topology are routes that match the specifically written filter).

Hong further discloses *identifying the substitute pre-written filter by matching each of the plurality of pre-written filters, one at a time, with the specifically written filter to determine which pre-written filter most closely matches, according to a defined test, the specifically written filter* (Para.[0033]

The formation of the routing table is implemented by a bounded flooding routing algorithm (BFRA). The algorithm computes all possible routing entries which exist between the transfer and receiving point and compares with the routing table; where the BFRA is the defined test).

Hong further discloses *loading the identified pre-written filter onto the router* (Fig.9 ref.S907 where the compared routes that are kept from the old topology are pre-written filters that are found to match the specifically written filter).

Hong further discloses *using one of the pre-written filters to determine how the router routes data* (Fig.9 ref S907 where a router uses routes to route data).

**Re claims 3-5,8-10,14, and 15:**

Hong discloses *running a computer program to identify which one of the pre-written filters most closely matches the specifically written filter, according to a pre-defined test and criteria or features* (Abstract "The present invention performs BFRA (bounded Flooding Routing Algorithm) on a network topology information provided by a network management system to form a routing table"

where the criteria (or feature) is the cost of the link and the cost is calculated and then used).

**Re claim 16:**

Hong discloses *loading both the identified pre-written and specifically written filter onto the router* (Fig.9 S905 and Fig.9 ref.S907 where both are stored).

**Re claim 17:**

Hong discloses *a group of individuals providing a plurality of router filters written specifically for the router* (Para.[0004] "it is needed to provide various yes distinguished services from other existing services to meet a user's expectations" where the specifically written filter is based on provided user expectations).

Hong further discloses *identifying for each specifically written filter a match in the pre-written filter* (Abstract "The present invention performs BFRA (bounded Flooding Routing Algorithm) on a network topology information provided by a network management system to form a routing table").

Hong further discloses *the pre-defined set of criteria being determined at the time the program is run and by a group of individuals* (Para.[0004] "it is needed to provide various yes distinguished services from other existing services to meet a user's expectations" where the user's expectations are used in the criteria).



**Re claim 18:**

Hong discloses *the loading step including loading one of the pre-written filters onto the router* (Para.[0033] where the routes from the previous topology that remain are loaded into the router).

***Response to Arguments***

6. Applicant's arguments filed 7/20/2006 have been fully considered but they are not persuasive.

In the remarks on pg. 10-11, Applicant contends that the specifications enables the claims rejected under 112 1<sup>st</sup> paragraph.

The Examiner respectfully disagrees. An enablement rejection stands because "The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, and concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention." The specification fails to adequately disclose the above stated limitations.

In the remarks on pg.12, Applicant contends that Hong does not match a plurality of pre-written filters to the specifically written filter to determine which pre-

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written filter most closely matches, according to a test, the specifically written filter.

The Examiner respectfully disagrees. In Hong, all possible routes are compared to routes in a routing table (see Hong Para.[0033]). The BFRA is the defined test used to determine the pre-written filter that most closely matches the specifically written filter.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hariguchi (US App.2002/0080798) show replacing a route. Bourgart (US App. 2004/0105441) shows substituting a reserved routing address for another routing address.

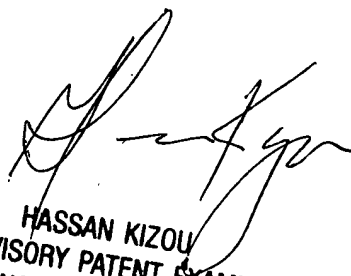
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad S. Adhami whose telephone number is (571)272-8615. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571)272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSA 3/24/2007



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